

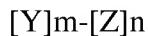
REMARKS

The amendments above cancel the nonelected claims, subject to a reserved right to pursue them in a divisional application, and add new claims that find support in the specification at pages 31-36. No new matter has been introduced.

Turning to the non-final Office Action dated October 13, 2010, claims 1-7 remain rejected as being unpatentable for obviousness over a new rejection based on the combined teachings of Anderson et al. '763 and/or Anderson et al. 6,207,857 in view of Paget et al. AU 71940/94. Applicants respectfully traverse and request withdrawal of the rejection.

1. Summary of the Cited References

Anderson '763 teaches a fragrance precursor for laundry detergents and fabric softeners that exhibits a slow conversion to fragrant lactones/aldehydes/ketones by the two step degradation of a precursor compound having the formula:



As described by Anderson '763 in column 2, the definitions for the "Y" and "Z" groups are different than the group of compounds that are required by the present claims.

As noted in column 4, lines 1+, the first step in this degradation process is the removal of the protective "Z" group to form a hydroxyester having the formula:



As noted in column 3, lines 62-64, the hydroxyester cleavage products can "generate fluorescent coumarins useful as optical brighteners." (This is obviously good for fabric treatments and not so good for permanent hair coloring compositions.)

Importantly, it is the hydroxyester that then decomposes into one or more organoleptic lactones, alcohols, amines, aldehydes and/or ketones. See, column 4, lines 7-17. Due to the need to cleave two carboxyl groups, the release of fragrance from Anderson's precursor takes significantly more time than with the precursor used in the claimed method. Indeed, this "slow release of the active agents" is touted as an advantage by Anderson '763 in column 6, lines 21-22. As noted in the "Background" section of Anderson '763 at column 1, lines 35-46, the slow release, two stage decomposition mechanism of the disclosed invention represented an improvement over the prior art fragrance compounds for textiles in Paget WO 95/04809 (of record) that were not sufficiently long lasting. The Paget WO 95/0489 compound, even though in French, appears to disclose the exact same fabric perfume precursor compound as in Paget AU-71940/94, the reference cited by the examiner in the latest Office Action.

Anderson 6,207,857 is newly cited and teaches the use of compounds having the general formula noted by the Examiner. Like Anderson '763, the disclosed use and benefit of this fragrance precursor are the release of one active compound (if R1 = R3) or the release of two different active compounds if X yields a lactone or when R1 = R3 but not R4. See, column 4, lines 1-11. Anderson '857 does not include any teaching or disclosure of how fast the fragrance compounds are generated.

Inspection of the more specific teachings in Anderson '857 in column 4 shows that none of the embodiments have the formula of structures (II) to (V) could correspond to the fragrance precursor of the claimed invention as none of these embodiments encompass a structure in which -(XnR2) corresponds to the claimed "(a) branched or unbranched C₁ to C₄ alkyl group or (b) branched or unbranched C₂ to C₄ alkylene group". Indeed, even the broad description of the

moiety options for X and R² found in columns 1-2 show that while X may have 1-20 carbon atoms, R² must be a carbocyclic or heterocyclic moiety or -COOY. The combination of -XR² thus excludes the range of options that are available for the claimed R² moiety. As the Examiner has not cited to any specific embodiment in Anderson '857 that teaches or suggests the use of a fragrance precursor compound within the scope of any of the pending claims in this application we are left with an absence of any teaching within the prior art that would lead one skilled in that art to the currently claimed invention, obviously or otherwise.

Paget AU 71940/94 was not specifically discussed by the examiner in the Office Action apart from an assertion on pages 6-7 that Paget teaches “a process for perfuming fabrics” with “a detergent composition [that] contains the compound of instant formula I wherein R² = Y which represents a C7-C24 . . . alkyl radical . . .” This summary is, however, only partially correct.

Paget AU 71940/94 does teach the compound asserted and the Y component is in the same position in the formula as the R², but it is not the fragrance precursor required by the pending claims. Notably, the R² moiety of both independent claims 1 and 4 restricts the scope of this moiety to “an (a) branched or unbranched C₁ to C₄ alkyl group or (b) branched or unbranched C₂ to C₄ alkylene group.” The alkyl and alkylene groups of the present claims are shorter than the smallest carbon chain length described by Paget et al. with no teaching that a shorter chain length would be useful for any purpose.

2. The Examiner Has Not Presented a *Prima Facie* Case For Obviousness

The Examiner has failed to present a *prima facie* case of obviousness that is legally or factually sufficient to justify continued refusal to allow the present claims. For any of several reasons, the rejection should be withdrawn and the case passed to issue.

One reason is that the Examiner has failed to cite a reference that discloses the claimed fragrance precursor. The explanation of the motivation behind the rejection is stated on page 8 of the Office Action shows that the Examiner has based the rejection solely on “enol ester compounds that are similar in structure” without establishing any underlying reason why one in this art would seek to use an enol ester having a structure different from those disclosed in the cited art.

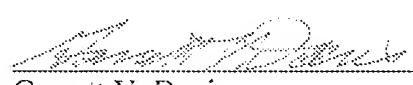
Pointedly, all of the references teach the use of their fragrance precursors for adding scents to laundered textiles in which the scent lasts for an extended time period. The mechanism by which this happens in Anderson ‘763 is a compound structure that must break down in two steps. The product of the first degradation step is not, however, the precursor compound of the claimed invention so the fragrance is not imparted as a result of dissociation and release of “one or more organoleptically active compounds... based on a rapid rate of hydrolysis of said fragrance precursor compound” as required by independent claims 1 and 4. Anderson ‘763 and Anderson ‘857 are directed to a slow release of the fragrance. See, for example, column 1, lines 17-18, and column 4, lines 56-57, of Anderson ‘763. Thus, Anderson ‘763 and Anderson ‘857 only teach the slow sustained release of the fragrance and provide no teaching or suggestion of the spontaneous and rapid release by the rapid rate of hydrolysis of the compound of formula 1.

As a second and related matter, none of the cited references teaches a formulation or desire to use a fragrance precursor formulation that releases the fragrance quickly. Newly added claim 26 is specifically directed to this issue and is based on the tests shown in Table 2 on page 33 of the specification.

Third, none of the cited references teaches the use of a fast-acting fragrance precursor to add fragrance quickly to a permanent hair coloring composition. See, new claims 21-25. The use of the prior art fragrance materials of slow release and extended duration would not have sufficient time to act in a hair coloring composition that was applied for only five minutes and then washed away. There is, therefore, little reason to use a slow-to-act laundry detergent fragrance precursor in short-lived hair coloring compositions.

Reconsideration of the rejection and allowance are respectfully requested.

Respectfully submitted,



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